

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-15-07)
CROWN CASTLE
SEPTEMBER 22, 2015

This is a report to the Flathead County Board of Adjustment regarding a request from Crown Castle for a conditional use permit to establish a 'cellular tower' on the subject property. The property is located within the Lone Pine Zoning District and is zoned 'R-1 Suburban Residential.'

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on October 6, 2015 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Committee.

B. Board of Adjustment

This space is reserved for an update regarding the October 6, 2015 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Landowner

NCWPCS MPL 28 – Year Sites Tower Holdings, LLC
Team Suite 13-F West Tower
575 Morosgo Dr.
Atlanta, GA 30324

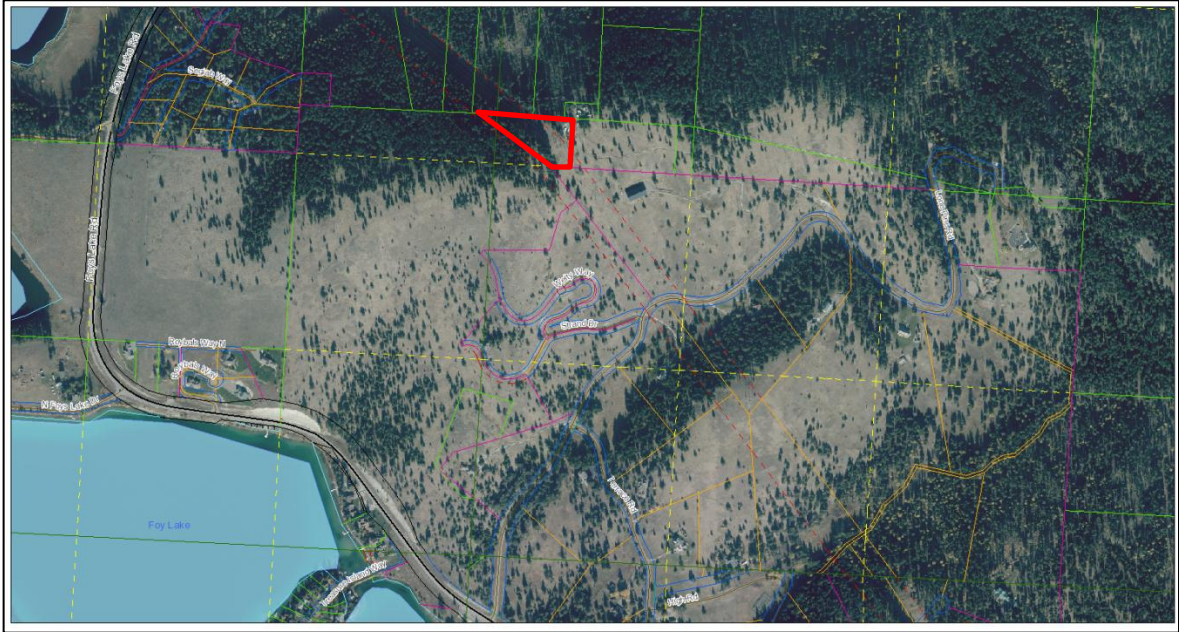
ii. Applicant

Sandra Walden
Crown Castle
1505 Westlake Ave N Ste. 800
Seattle, WA 98109

B. Property Location and Size

The subject property is located at 209 Lone Pine Road near Kalispell, MT (see Figure 1 below). The property is approximately 2.6 acres and can be legally described as Tract 7AB of Section 24, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in red)



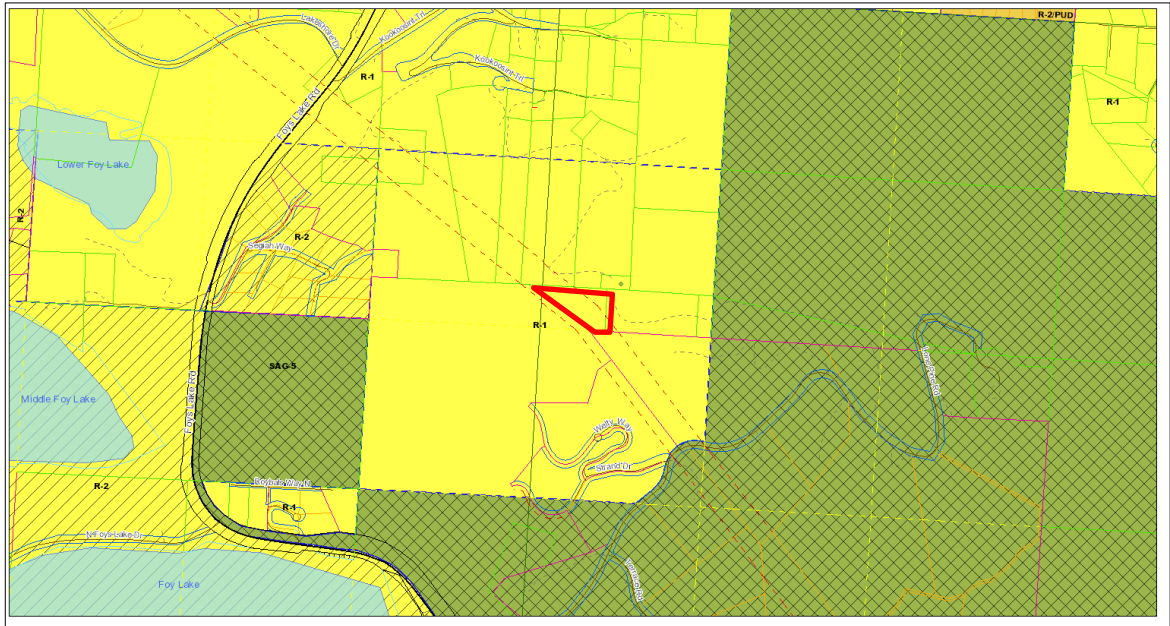
C. Existing Land Use(s) and Zoning

The property is currently developed with an existing 130 foot cellular tower and ground cabinets. The property is located within the Lone Pine Zoning District and is zoned ‘R-1 Suburban Residential.’ The R-1 zone is defined as, *“A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).”*

D. Adjacent Land Use(s) and Zoning

The properties that surround the subject property are all zoned R-1. The general character of the surrounding area is a mix of residential and open space. East of the subject property is Lone Pine State Park and to the northeast of the property is another cellular tower. Many of the properties surrounding the subject property are either large tract residential or undeveloped.

Figure 2: Zoning surrounding the subject property (outlined in red)



E. Summary of Request

The applicant is requesting a conditional use permit to construct a 180 foot cellular tower; the new tower would replace the existing 130 foot cellular tower on the site. The placement of a cellular tower within the R-1 zone requires the issuance of a conditional use permit. The review of which is subject to specific guidelines set forth under Section 2.06.080 FCZR regarding criteria for the issuance of a conditional use permit. The applicants are proposing to construct the new tower in order to accommodate future co-location. The new tower will have an 8 foot security fence along the perimeter and no trespassing signs will be posted on the site as well.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on September 16, 2015, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the September 20, 2015 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on August 24, 2015:

- Montana Department of Natural Resources and Conservation
- Montana Fish, Wildlife and Parks
- Flathead County Solid Waste
- Smith Valley Fire Department
- Flathead City-County Environmental Health Department
- Flathead County Weeds and Parks Department
- Bonneville Power Administration

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the requested conditional use permit. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for October 6, 2015. Any written

comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: “In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time. Please note part of this property lies within the BPA transmission line easement right-of-way (ROW). BPA easements are taken with certain restrictions on the underlying land. In order to maintain operation and safety criteria, all activities planned with the BPA ROW, to include any travel or staging of equipment, need to be approved by BPA prior to their occurrence.” Email received August 1, 2015.
- Flathead County Weed, Parks and Recreation
 - Comment: State that is the land owners responsibility to control noxious weeds on their land and requires that a Soil Distribution and Weed Management Plan is enclosed for the land owner to complete and return. Letter dated September 9, 2015.
- Montana Fish, Wildlife and Parks
 - Comment: “Montana Fish, Wildlife and Parks has no comment regarding the Crown Castle request for a use permit to replace a cell tower at 209 Lone Pine Road near Kalispell.” Letter received September 4, 2014.
- Smith Valley Fire District
 - Comment: “has no issue with the cell phone tower project.” Email dated August 27, 2015.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

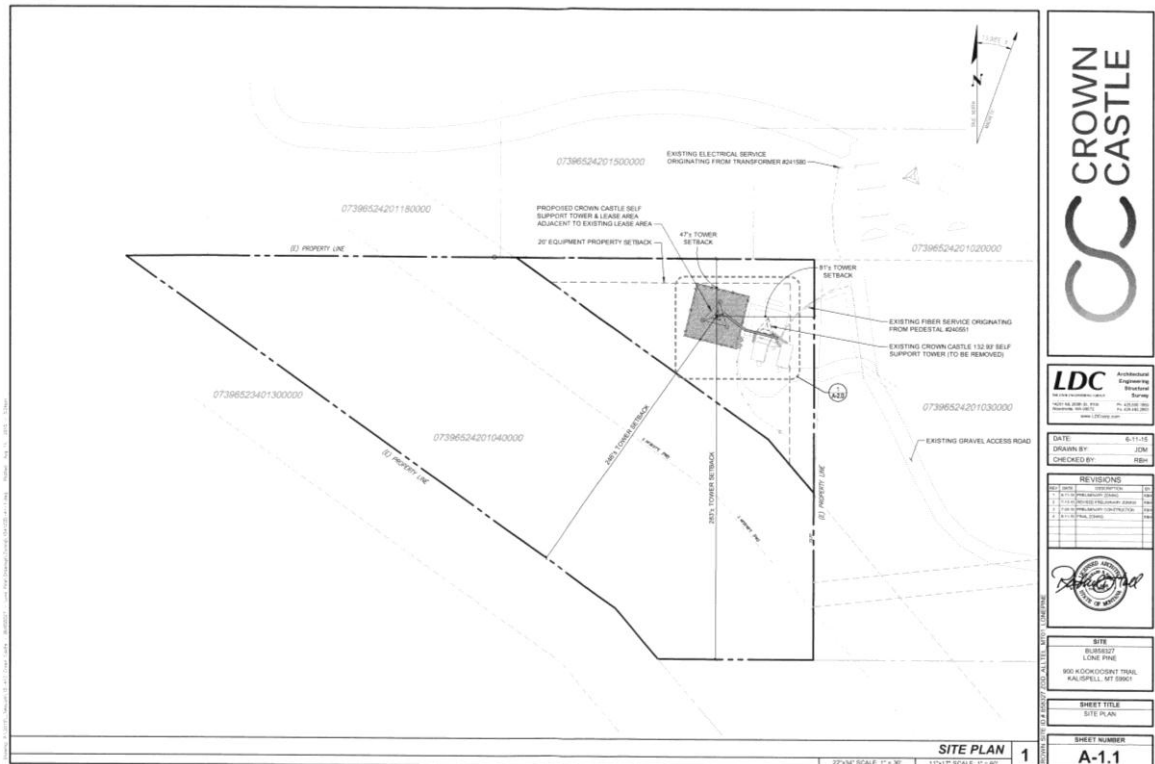
i. Adequate Usable Space

The subject property currently contains a cellular tower and two accessory ground cabinets. The existing cellular tower is located in a fenced in area on concrete slabs and the proposed cell tower will also be located in a fenced in area on concrete slabs. The property is approximately 2.6 acres, approximately 2.0 acres of which is located within a BPA transmission easement, leaving 0.6 acres for the construction of the new cellular tower. According to the site plan the new tower will be placed directly west of the location of the existing tower, outside of the BPA easement, and the old tower will be removed.

The permitted lot coverage for the R-1 zone is 40%, which would be approximately 1.04 acres. The BPA easement covers 2.0 acres leaving only 0.6 acres of buildable area (not including the setbacks). The minimum yard requirement within the R-1 zone is 20 feet from all sides for principal structures. The setback for an accessory structure is 20 feet from the front and 5 feet from the side and rear.

The site plan shows the concrete base for the cellular tower to be approximately 10,920 square feet. The proposed cell tower and cabinets would take up only a portion of that area. The proposed cellular tower and accessory buildings would cover less than 40% of the lot.

Figure 3: Site plan



Based upon staff's site visit and the submitted site plan, it appears the subject property has adequate useable space to accommodate the tower and the existing buildings on the subject property.

Finding #1 – There appears to be adequate usable space on the subject property for the proposed use because the tower and accessory buildings would cover 10,920 square feet of the 2.6 acre lot and meet applicable bulk and dimensional requirements.

ii. Adequate Access

The sites primary access is via a one lane gravel access road off of Lone Pine Road. Lone Pine Road is a paved, two lane local road within a 60 foot easement. According to the application, "The existing access will be utilized. [...]. The easement for access is across 3 parcels indicated on A-1.0 of the enclosed drawings will remain." The existing access appears to traverse 5 parcels of land 4 of which are owned by the State of Montana and located within Lone Pine State Park. Access for the cellular tower appears adequate because the tower would be un-manned and would only be accessed minimally for routine maintenance after construction has been completed. All access shall be approved by the County Road and Bridge Department as applicable, with the issuance of an approach permit, per Section 6.16.020(4) [FCZR].

Finding #2 – The access appears adequate for the proposed use because the property has legal and physical access onto public Lone Pine Road and the gravel drive is

capable of accommodating the minimal vehicle traffic created as a result of the proposed use.

Figure 4: Gravel access road



iii. Absence of Environmental Constraints

The subject property is located at the top of a hill with a drop in elevation on the north side. The applicant is proposing to have a concrete base which will provide a stable surface for the proposed tower. The property is located on FEMA FIRM panel 30029C 1815G and designated as un-shaded Zone X. The un-shaded Zone X is classified as an area outside the 500-year floodplain. There are no wetlands, streams, or creeks located on the parcel, and there appears to be no other environmental constraints.

Finding #3 – The site appears suitable for the proposed use because the location has no apparent environmental factors which would be adversely impacted or which would limit the suitability of the property for the proposed use.

B. Appropriateness of Design

i. Parking Scheme

The Flathead County Zoning Regulations do not impose any parking requirements for cellular towers. As it is an un-manned structure and will only be accessed periodically for maintenance no parking would be required.

ii. Traffic Circulation

The sites primary access is via a one lane gravel access road off of Lone Pine Road. Lone Pine Road is a paved, two lane local road within a 60 foot easement. The application states, “There will be no increased impact on the traffic at this location due to this proposal. It is an un-manned facility with an occasional operations technician visiting the site.” Existing gravel road is a narrow track that is gated off at Lone Pine Road which limits access to authorized vehicles only. Traffic circulation on the property appears adequate because the tower would be un-manned and would be accessed minimally for routine maintenance.

iii. Open Space

The subject property currently contains a cellular tower and two ground cabinets. The proposed cellular tower shall be located in a fenced in area on concrete slabs. The property is approximately 2.6 acres, approximately 2.0 acres of which is located within a BPA transmission easement, leaving 0.6 acres for the construction of the new cellular tower. The application states, "Open space around the facility will be maintained." The area within the BPA transmission easement will remain open space.

The permitted lot coverage for the R-1 zone is 40%, which would be approximately 1.04 acres. The BPA easement covers 2.0 acres leaving only 0.6 acres of buildable space (not including the setbacks). The site plan shows the concrete slab for the cellular tower to be approximately 10,920 square feet. The proposed cell tower and cabinets would take up only a portion of the 0.6 acres outside the BPA easement. The proposed cellular tower and accessory buildings would cover less than 40% of the lot. Based upon staff's site visit and the submitted site plan, it appears the subject property has appropriate open space.

iv. Fencing/Screening

Section 5.13.020 FCZR states, "Security fencing eight feet in height shall surround any lattice tower and accessory equipment shelter. Buffering landscaping is recommended, although not required." There is currently a chain link fence around the existing cellular tower; a new 8 foot chain link fence shall be required for the proposed cellular tower.

v. Landscaping

The property is forested and located in a relatively remote rural area. Section 5.13.020 FCZR does not require landscaping for cellular communication facilities and no additional landscaping is proposed.

vi. Signage

The applicant proposes only signage compliant with Section 5.13.080 FCZR which requires posting of signs stating "No Trespassing" and providing an emergency contact telephone number.

vii. Lighting

Pursuant to Section 5.13.070 FCZR "*No tower under 150 feet shall be artificially lighted except to assure safety or as required by the FAA.*" The application is proposing exterior security light to be placed on the building and because the proposed tower will be 180 feet in height, the applicant will install lighting in accordance with FFA requirements.

Finding #4 – The design of the proposed cellular tower appears appropriate because the use does not require parking, there is no impact to existing traffic circulation nor will the proposed use generate regular traffic, there appears to be adequate open space, the area will be fenced in accordance with applicable regulations, the site will have no advertising signage but will comply with requirements for safety signage and safety lighting will be in compliance with FAA requirements.

C. Availability of Public Services and Facilities

i. Sewer

Sewer services are not necessary for the un-manned operation of the cellular tower and no impact on sewer services is anticipated as a result of the proposed use.

ii. Water

Water services are not necessary for the un-manned operation of the cellular tower and no impact on water services is anticipated as a result of the proposed use.

iii. Storm Water Drainage

The storm water run-off will continue to be handled through on-site absorption. The existing cabinets will remain after the new cellular tower has been constructed and the existing cellular tower will be removed. The existing tower has a concrete base and the proposed tower will have 3 pier foundations at the base with a concrete base located below ground, which would allow for onsite absorption. It is anticipated that the proposed tower will reduce the impact on storm water drainage once the existing tower base is removed.

Finding #5 – The proposed use appears to have minimal impact on sewer, water and storm drainage because sewer and water are not necessary for an un-manned tower, the tower will not increase the impervious surface of the lot and storm water run-off will be managed on-site through an existing storm water management system.

iv. Fire Protection

The subject property is served by the Smith Valley Fire Department, and is located approximately a 1.3 road miles from an existing fire station on Foy's Lake Road. Comments from the Fire Department indicate no concerns with the proposal. Due to the close proximity to the fire station, it is anticipated response times in the event of an emergency would be reasonable.

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. It is anticipated response times in emergency would not be unreasonably long given the property's proximity to an urban, developed area of the County.

vi. Streets

The site's primary access is via a one lane gravel access road off of Lone Pine Road. Lone Pine Road is a paved, two lane local road within a 60 foot easement. The proposed tower is un-manned and would generate minimal traffic; therefore no impact is expected on Lone Pine Road.

Finding #6 – The proposed use appears to have acceptable impacts on public services and facilities because the Smith Valley Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed via Lone Pine Road.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

The cellular tower will be an un-manned structure and would generate minimal traffic during construction and maintenance. Traffic generated by the cellular tower appears to have minimal impact on the neighborhood because the tower would be un-manned and would be accessed minimally for routine maintenance.

ii. Noise or Vibration

It is anticipated that the proposed tower would generate no noise or vibrations, as it would be an un-manned tower and therefore would have a minimal impact on the neighborhood.

iii. Dust, Glare or Heat

The tower will be a non-reflective surface and is not anticipated to produce dust, glare or heat that would adversely impact the neighborhood.

iv. Smoke, Fumes, Gas, or Odors

It is anticipated that the proposed tower would generate no smoke, fumes, gas, or odors, as it would be an un-manned tower and therefore would have a minimal impact on the neighborhood.

v. Inappropriate Hours of Operation

The cellular tower is un-manned and hours of operation are not applicable.

Finding #7 – The immediate neighborhood impact from the proposed cellular tower is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors, hours of operation are not applicable for an un-manned tower.

V. SUMMARY OF FINDINGS

1. There appears to be adequate usable space on the subject property for the proposed use because the tower and accessory buildings would cover 10,920 square feet of the 2.6 acre lot and meet applicable bulk and dimensional requirements.
2. The site is suitable for the proposed use because the property has legal and physical access onto public Lone Pine Road and the gravel drive is capable of accommodating the minimal vehicle traffic created as a result of the proposed use.
3. The site appears suitable for the proposed use because the location has no apparent environmental factors which would be adversely impacted or which would limit the suitability of the property for the proposed use.
4. The design of the proposed cellular tower appears appropriate because the use does not require parking, there is no impact to existing traffic circulation nor will the proposed use generate regular traffic, there appears to be adequate open space, the area will be fenced in accordance with applicable regulations, the site will have no advertising signage but will comply with requirements for safety signage and safety lighting will be in compliance with FAA requirements.
5. The proposed use appears to have minimal impact on sewer, water and storm drainage because sewer and water are not necessary for an un-manned tower, the tower will not increase the impervious surface of the lot and storm water run-off will be managed on-site through an existing storm water management system.
6. The proposed use appears to have acceptable impacts on public services and facilities because the Smith Valley Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed via Lone Pine Road.
7. The immediate neighborhood impact from the proposed cellular tower is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors, hours of operation are not applicable for an un-manned tower.

VI. CONCLUSION

Upon review of this application, the request to allow for a cellular tower on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-15-07 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS OF APPROVAL

1. The cellular tower on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. Development and operation of the facility shall comply with the Performance Standards relating to Cellular Communication Towers as outlined in Section 5.13 of the Flathead County Zoning Regulations.
4. The applicant shall adhere to all applicable Federal Aviation Administration and Federal Communications Commission requirements.
5. The applicants shall obtain and comply with all required local, state and federal permits associated with the proposed use prior to site development.
6. The applicant/developer shall install an eight (8) foot high security fence with slats in an earth tone color around the cellular tower facility and all associated buildings.
7. "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.
8. Current and future lighting installed on the property shall be in compliance with Section 5.12 of the Flathead County Zoning Regulations.
9. The facility is approved based on the condition that it is used solely for the microwave tower and if it should cease in operation per the Flathead County Zoning Regulations, the entire facility shall be completely dismantled and removed from the property.
10. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of the activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
11. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: EKM